

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

No. 6:24-cv-00068

**Anthony Prescott,**  
*Plaintiff,*

v.

**Terrie Hopkins et al.,**  
*Defendants.*

**ORDER**

Plaintiff Anthony Prescott, a former prisoner of the Texas Department of Criminal Justice proceeding pro se, filed a complaint alleging violations of his constitutional rights in prison. The case was transferred to this court for proper venue and referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636(b).

On February 28, 2024, the magistrate judge ordered plaintiff to file an amended complaint and satisfy the filing fee requirement within thirty days. Doc. 10. United States Postal Service tracking records establish that this order was delivered to an individual at plaintiff's address on March 5, 2024. On April 25, 2024, plaintiff filed a motion for extension of time to amend his complaint, and on May 1, 2024, the court granted him an additional twenty-one days from entry of its order. Docs. 14, 15. United States Postal Service tracking records establish that the magistrate judge's order was picked up at the post office at 12:20 p.m. on May 7, 2024. *See* USPS Tracking for # 7020-1810-0000-1090-6117, available at <https://tools.usps.com/go/TrackConfirmAction?tRef=full-page&tLc=2&text28777=&tLabels=70201810000010906117%2C&tABt=true>. On June 3, 2024, well after the expiration of his deadline, plaintiff filed another motion for extension of time. Doc. 17.


On June 5, 2024, the magistrate judge issued a report recommending that plaintiff's case be dismissed without prejudice due to his failure to comply with the court's orders to amend his complaint

and satisfy the filing fee requirement for this case. Doc. 18. Plaintiff filed a timely written objection. Doc. 21.

The court reviews the objected-to portions of a magistrate judge's report and recommendation de novo. *See* Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1). In his objection, plaintiff first blames his failure to comply on mail delays. Doc. 21 at 2. But the postal records set forth above establish that plaintiff received the court's orders with sufficient time to comply or to file timely motions for extension. Second, plaintiff attributes his failures to "attacks by the governmental agencies," including breaking into his home and poisoning his food. *Id.* But the court does not credit those. Therefore, the court overrules plaintiff's objections.

Having reviewed the magistrate judge's report de novo, the court accepts the report's findings and recommendation for the reasons stated herein.<sup>1</sup> Plaintiff's case is dismissed without prejudice due to his failure to comply with the orders of the court and to take the steps necessary to prosecute his claims.

*So ordered by the court on July 24, 2024.*

  
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J. CAMPBELL BARKER  
United States District Judge

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<sup>1</sup> Contrary to the report and recommendation, the court finds that plaintiff paid the filing fee. Doc. 2. Nonetheless, plaintiff's failure to comply with the court's order to amend his complaint is sufficient to dismiss this case without prejudice.